IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WA.No. 788 of 2007()

{IN W.P.(C)NO.1651/2007 OF THIS COURT}

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APPELLANT/PETITIONER:

B.KRISHNA KUMAR,PLOT NO.6,SANTHI NAGAR,
RAJAGIRI P.O,SOUTH KALAMASSERY.

BY ADVS. SRI.K.SURENDRA MOHAN
& SRI.T.K.RAJESHKUMAR

RESPONDENTS/RESPONDENTS:

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1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),ERNAKULAM.

3. THE UNIT INSPECTOR,MARADU,OFFICE OF THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES,
KANAYANNUR,CHITTOOR ROAD,KOCHI-682016.

4. THE FACT MANAGERIAL STAFF HOUSE CONSTRUCTIONS CO-OPERAIVE SOCIETY LTD,NO.E.243,
SANTI NAGAR ANNEXE,RAJAGIRI P.O,SOUTH KALAMASSERY,
KOCHI-683 104,REPRESENTED BY ITS SECRETARY.

5. S.JAYATHILAKAN,"KARTHIKA", FRANKLIN GARDEN, KUTTYKATTUKARA.

6. V.MOHAMMED JAMAL,BF 38, FACT TOWNSHIP, UDYOGAMANDAL P.O.

7. M.K.AUGUSTINE, MANJATHENUMKATTIL HOUSE, CHUNANGANVELI,ALUVA.

8. T.K.CHANDRAGUPTAN, THACHEDATH VANIYAMKOTTIL HOUSE, ELOOR SOUTH, UDYOGAMANDAL P.O-683 501.

9. JOSE ANTONY,THENAMKADATH HOUSE, PUTHENPALLY,VARAPUZHA P.O.

10. BALLY J,FACT MAINTAB, FACT LTD, UDYOGAMANDAL P.O,683 501.

11. CHARLY JOSEPH,Q5/28, FACT TOWNSHIP, UDYOGAMANDAL P.O,683 501.

12. M.K.KALADHARAN,B 27, FACT TOWNSHIP, UDYOGAMANDAL P.O 683 501

13. T.REGHUMOHAN KUMAR, BHAVANI,H.NO.30/555, PARAYIL ROAD,ELAMAKKARA.

14. V.T.BAJI, ASST.ENGINEER, RAJIV GANDHI CONTAINER TERMINAL,KOCHI.

R1 TO R3 BY GOVERNMENT PLEADER SMT.A.G.ANEETHA

R4 BY ADV. SRI.P.SANTHALINGAM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A.No.788 of 2007

Dated this the 29th day of May, 2007

JUDGMENT

H.L. DATTU, C.J.

The 4th respondent is a society registered under the provisions of the Kerala Co-operative Societies Act and the Rules framed thereunder. The appellant/petitioner was a former member of the 4th respondent society. In the writ petition filed under Articles 226 and 227 of the Constitution of India, the appellant/petitioner sought the following reliefs. They are as under:

> "A. To call for the records and proceedings of the respondents relating to exhibit P-3 report and exhibit P-4 representation of the petitioner and after scrutiny thereof, to direct respondents 1 and 2 to pass appropriate orders removing the present office bearers of the 4th respondent-society and appointing an Administrator for the proper management of the affairs of the Company by the issue of a writ of mandamus or any other appropriate writ, order or direction;
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> B. To direct the respondents 1 and 2 to do all that is necessary to ensure that the 4th respondent does not go ahead with its project of purchase of land from M/s.Sudarshan Clay and Ceramics Ltd., at the price agreed to by it, and to return the amounts collected from prospective purchasers in respect of the said project within a specified time;"

2. Learned counsel appearing for the 4th respondent society, by way of a preliminary objection, would submit that the appellant/petitioner has no locus standi to maintain the writ petition on the ground that he is not member of the society.

3. Apart from the above preliminary objection, learned counsel would submit that pursuant to the enquiry report that was submitted by the Junior Inspector of the Society, the Joint Registrar of Co-operative Societies had passed an order and that order has been set aside by this court in W.P.(C)No.29409/05 and connected matters and therefore, as on today, the reliefs sought for by the appellant/petitioner does not arise for consideration.

4. In so far as the first objection is concerned, we think, the learned counsel for the 4th respondent is justified in making the submission that since the appellant/petitioner is not a member of the society, he cannot seek certain reliefs against the society. The provisions of the Co-operative Societies Act would permit a member to raise a dispute with regard to the affairs of the society before a Competent Authority under the Act.

5. In the instant case, the appellant/petitioner was a former member of the society and he has been removed from the membership of the society. In view of the above, the petitioner could not have maintained the writ petition before this court inter alia requesting this

court to proceed against the society on the basis of the report of the Inquiry Officer.

6. Apart from the above, the Inquiry Officer had submitted his report dated 25.4.2005 before the Joint Registrar of Co-operative Societies. The Joint Registrar had passed an order and that order has been set aside by this court.

In view of the above, none of the reliefs sought for by the appellant/petitioner in the writ petition would survive for consideration. Accordingly, the writ appeal is dismissed as having become unnecessary. Ordered accordingly.

Sd/-
H.L. DATTU,
CHIEF JUSTICE.

Sd/-
K.T. SANKARAN,
JUDGE.

Sk/

//true copy//

P.S. To Judge